

THIRTY-FOURTH DAY

(Continued)

(Thursday, March 7, 1935)

The House met at 10 o'clock a. m., and was called to order by Speaker Stevenson.

MESSAGE FROM THE SENATE

Senate Chamber,
Austin, Texas, March 7, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

H. B. No. 474, A bill to be entitled "An Act relating to mining claims and rights, amending Article 5395, of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, etc., and declaring an emergency."

The Senate has adopted

H. C. R. No. 37, Relative to disbursement of funds collected by the Racing Commission.

Respectfully,
BOB BARKER,
Secretary of the Senate.

**BILL AND RESOLUTIONS
SIGNED BY THE
SPEAKER**

The Speaker signed, in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bill and resolutions:

H. B. No. 474, "An Act relating to mining claims and rights, amending Article 5395 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, relating to the time of payment of rentals on mining claims awarded under Article 5397 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, and providing royalties to be paid the State from minerals produced upon such claims; and amending Article 5397 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, providing for forfeiture of rights of locator or owner of mining claims by the Land Commissioner or upon default of payment of any sum due within thirty (30) days after sum is due, etc., and declaring an emergency."

H. C. R. No. 49, To suspend Joint Rule 23 for the purpose of considering certain House bills.

H. C. R. No. 37, Relative to disbursements of monies obtained from Racing Fund.

**HOUSE JOINT RESOLUTION NO.
1 ON SECOND READING**

The Speaker laid before the House, as pending business,

H. J. R. No. 1, Proposing an amendment to Article XVI, of the Constitution of the State of Texas, by striking out Section 20a to Section 20e, both inclusive; providing for a local option on the question of the sale of intoxicating liquors for beverage purposes; vesting in the Legislature the power to regulate the manufacture, sale, and traffic in intoxicating liquors; providing that intoxicating liquors shall not be manufactured, sold, bartered, or exchanged for beverage purposes in any county or political subdivision wherein the sale of intoxicating liquors had been prohibited by local option elections held under the laws in force at the time of the taking effect of Section 20, Article XVI, of the Constitution of the State of Texas, etc.;

The resolution having been read second time on yesterday, with amendment by Mr. Moffett, pending.

Mr. Morse moved to table the amendment by Mr. Moffett.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—71

Alexander	Dunlap of Kleberg
Atchison	Duvall
Bergman	Dwyer
Bourne	Fitzwater
Bradford	Ford
Burton	Fuchs
Butler of Brazos	Hankamer
Butler of Karnes	Hardin
Caldwell	Harris of Dallas
Celaya	Hartzog
Clayton	Herzik
Collins	Hill
Colquitt	Hofheinz
Colson	Holland
Crossley	Hoskins
Dickison	Howard
Dunagan	Huddleston
Dunlap of Hays	Hunter

Jackson	Reader
James	Reed of Dallas
Jefferson	Roane
King	Roberts
Knetsch	Rogers
Lotief	Russell
Lucas	Rutta
Luker	Shofner
McCalla	Smith
McKee	Spears
Moore	Stanfield
Morse	Stinson
Newton	Tennyson
Nicholson	Thornton
Olsen	Waggoner
Padgett	Walker
Patterson	Young
Pope	

Nays—66

Adamson	Jones of Falls
Adkins	Jones of Runnels
Aikin	Jones of Shelby
Alsup	Jones of Wise
Ash	Lanning
Beck	Latham
Bradbury	Leath
Broyles	Lemens
Cagle	Lindsey
Cooper	Mauritz
Cowley	McConnell
Craddock	McKinney
Daniel	Moffett
Davis	Morris
Davison of Fisher	Morrison
Davisson	Payne
of Eastland	Petsch
England	Quinn
Fain	Reed of Bowie
Farmer	Roach of Angelina
Fisher	Roach of Hunt
Fox	Roark
Frazer	Settle
Gibson	Steward
Glass	Stovall
Good	Tarwater
Graves	Tillery
Gray	Venable
Harris of Archer	Wells
Head	Westfall
Hodges	Wood of Harrison
Hunt	Wood of Montague
Hyder	Youngblood
Jones of Atascosa	

Absent

Calvert	McFarland
Greathouse	Palmer
Lange	Riddle
Leonard	Scarborough

Absent—Excused

Canon	Worley
Keefe	

Mr. Lucas offered the following amendment to the resolution:

Amend House Joint Resolution No. 1 by striking out all after the resolving clause and insert in lieu thereof the following:

“Section I. That there be submitted and that it is hereby proposed that Section 20, of Article XVI, of the Constitution of Texas, as amended, 1933, be amended so as to read hereafter, as follows:

“Article XVI. Section 20. (a) The Legislature shall, at its first Regular or Called Session, enact a law or laws whereby the qualified voters of any county, justice's precinct, or incorporated town or city, or such subdivision of a county as may be designated by the commissioners court of said county, may, by a majority vote of those voting, determine from time to time whether the manufacture, sale, barter, gift, or transportation of intoxicating liquors for beverage purposes shall be prohibited within the prescribed limits.

“(b) In all counties in the State of Texas and in all political subdivisions thereof, wherein the sale, manufacture, barter, gift, or transportation of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the holding of such local option elections, it shall continue to be unlawful to manufacture, sell, barter, give, or exchange in any such county or in any such political subdivision thereof, any spirituous, vinous, or malt liquors or medical bitters capable of producing intoxication or any other intoxicants whatsoever for beverage purposes, unless and until a majority of the qualified voters in such county or political subdivision thereof voting in an election held for such purpose shall determine such purpose to be lawful.”

“(2) The foregoing amendment to the Constitution is hereby proposed and submitted to a vote of the qualified electors of this State at an election to be held throughout the State on August 24, 1935. At this election all voters favoring the proposed amendment shall write or have printed on their ballot the following words:

“For the amendment to the Constitution of Texas authorizing the sale

of intoxicating liquors, and authorizing the voters of any county, justice's precinct, town, or city, or such subdivision of a county as may be designated by the commissioners court of said county, to determine whether the sale of intoxicating liquors shall be prohibited.'

"Those voters opposing said amendment shall write or have printed on their ballot the following words:

" 'Against the amendment to the Constitution of Texas authorizing the sale of intoxicating liquors, and authorizing the voters of any county, justice's precinct, town, or city, or such subdivision of a county as may be designated by the commissioners court of said county, to determine whether the sale of intoxicating liquors shall be prohibited.'

"(3) The Governor of the State of Texas is hereby directed to issue the necessary proclamation for such election and to have same published as required by the Constitution and amendments thereto.

"Section II. (1) In the event that a majority of the qualified voters of this State at the election provided for in Section I of this resolution shall vote in the affirmative upon the proposed constitutional amendment as submitted in Section I hereof, then, and in that event, there shall be submitted, and it is hereby proposed, that Section 20, of Article XVI, of the Constitution of Texas, as was amended in 1933, be amended so as to read hereafter as follows:

" 'Article XVI. Section 20. (a) The manufacture, sale, barter, or exchange in the State of Texas of spirituous, vinous, or malt liquors or medicated bitters capable of producing intoxication, or any other intoxicant whatever except vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight (except for medicinal, mechanical, scientific, or sacramental purposes) are each and all hereby prohibited. The Legislature shall enact laws to enforce this section, and may from time to time prescribe regulations and limitations relative to the manufacture, sale, barter, exchange, or possession for sale of vinous or malt liquors of not more than three and two-tenths per cent (3.2%) alcoholic content by weight; provided, the Legislature shall enact a law or laws whereby the qualified voters of any

county, justice's precinct, town, or city may, by a majority vote of those voting, determine from time to time whether the sale for beverage purposes of vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcohol by weight shall be prohibited within the prescribed limits; and provided further, that in all counties in the State of Texas and in all political subdivisions thereof, wherein the sale of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the taking effect of Section 20, Article XVI, of the Constitution of Texas, it shall continue to be unlawful to manufacture, sell, barter, or exchange in any such county or in any such political subdivision thereof, any spirituous, vinous, or malt liquors or medicated bitters, capable of producing intoxication or any other intoxicant whatsoever, unless and until a majority of the qualified voters in said county or political subdivision thereof voting in an election held for such purpose shall determine it to be lawful to manufacture, sell, barter, and exchange in said county or political subdivision thereof, vinous or malt liquors containing not more than three and two-tenths per cent (3.2%) alcoholic content by weight, and the provision of this subsection shall be self-enacting.

" '(b) Until the Legislature shall prescribe other or different regulations on the subject, the sale of spirituous, vinous, or malt liquors or medicated bitters, capable of producing intoxication, or any other intoxicant whatever for medicinal purposes shall be made only in cases of actual sickness, and then only upon the prescription of a regular practicing physician, subject to the regulations applicable to sales under prescriptions in prohibited territory by virtue of Article 598, Chapter 7, Title 11, of the Penal Code of the State of Texas.

" '(c) This amendment is self-operative and until the Legislature shall prescribe other or different penalties, any person acting for himself or in behalf of another, or in behalf of any partnership, corporation, or association of persons, who shall, after the adoption of this amendment violate any part of this constitutional provision, shall be deemed guilty of a felony, and shall, upon conviction

in a prosecution commenced, carried on and concluded in the manner prescribed by law in cases of felonies, be punished by confinement in the penitentiary for a period of time not less than one year nor more than five years, without the benefit of any law providing for suspended sentence. And the district courts and judges thereof, under their equity powers, shall have the authority to issue, upon suit of the Attorney General, injunctions against infractions or threatened infractions of any part of this constitutional provision.

“(d) Without affecting the provisions herein, intoxicating liquors are declared to be subject to the general police power of the State; and the Legislature shall have the power to pass any additional prohibitory laws, or laws in aid thereof, which it may deem advisable.

“(e) Liability for violating any liquor laws in force at the time of the adoption of this amendment shall not be affected by this amendment, and all remedies, civil and criminal, for such violations shall be preserved.”

“(2) The foregoing amendment to the Constitution is hereby proposed and submitted to a vote of the qualified electors of this State at the general election to be held throughout the State on the first Tuesday after the first Monday in November, 1936. At this election all voters favoring the proposed amendment shall write or have printed on their ballot the following words:

“‘For the amendment to the Constitution of Texas making unlawful the sale of intoxicating liquors.’

“Those voters opposing said amendment shall write or have printed on their ballot the following words:

“‘Against the amendment to the Constitution of Texas making unlawful the sale of intoxicating liquors.’

“(3) The Governor of the State of Texas is hereby directed to issue the necessary proclamation for such election and to have same published as required by the Constitution and amendments thereto.

“Section III. (1) In the event that a majority of the qualified voters of this State at the election provided for in Section I of this resolution shall vote against the constitutional amendment, as provided for in Section I hereof, then, and in that event, at the general election to be held throughout

this State on the — day of November, 1936, there shall be submitted, and it is hereby proposed that Section 20, of Article XVI, of the Constitution of Texas, as amended in 1933, be amended so as to read hereafter, as follows:

“‘Article XVI. Section 20. (a) The Legislature shall, at its first Regular and Called Session enact a law or laws whereby the qualified voters of any county, justice’s precinct, or incorporated town or city, or such subdivision of a county as may be designated by the commissioners court of said county, may, by a majority vote of those voting, determine from time to time whether the manufacture, sale, barter, gift, or transportation of intoxicating liquors for beverage purposes shall be prohibited within the prescribed limits.

“(b) In all counties in the State of Texas and in all political subdivisions thereof, wherein the sale, manufacture, barter, gift, or transportation of intoxicating liquors had been prohibited by local option elections held under the laws of the State of Texas and in force at the time of the holding of such local option elections, it shall continue to be unlawful to manufacture, sell, barter, give, or exchange in any such county or in any such political subdivision thereof, any spirituous, vinous, or malt liquors or medical bitters capable of producing intoxication or any other intoxicants whatsoever for beverage purposes, unless and until a majority of the qualified voters in such county or political subdivision thereof voting in an election held for such purpose shall determine such purpose to be lawful.’

“(2) The foregoing amendment to the Constitution is hereby proposed and submitted to a vote of the qualified electors of this State at the general election to be held throughout the State on the first Tuesday after the first Monday in November, 1936. At this election all voters favoring the proposed amendment shall write or have printed on their ballot the following words:

“‘For the amendment to the Constitution of Texas authorizing the sale of intoxicating liquors, and authorizing the voters of any county, justice’s precinct, town, or city, or such subdivision of a county as may be designated by the commissioners

court of said county, to determine whether the sale of intoxicating liquors shall be prohibited.'

"Those voters opposing said amendment shall write or have printed on their ballot the following words:

"'Against the amendment to the Constitution of Texas authorizing the sale of intoxicating liquors, and authorizing the voters of any county, justice's precinct, town, or city, or such subdivision of a county as may be designated by the commissioners court of said county, to determine whether the sale of intoxicating liquors, shall be prohibited.'

"(3) The Governor of the State of Texas is hereby directed to issue the necessary proclamation for such election and to have same published as required by the Constitution and amendments thereto.

"Section IV. The sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, is hereby appropriated out of any funds of the Treasury of the State of Texas, not otherwise appropriated to pay the expenses of such publications and elections."

Mr. Morse moved to table the amendment by Mr. Lucas.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—101

Adamson	Duvall
Adkins	Dwyer
Alsup	England
Ash	Fain
Atchison	Ford
Bergman	Fox
Bourne	Frazer
Bradford	Fuchs
Burton	Glass
Butler of Karnes	Good
Caldwell	Graves
Clayton	Gray
Collins	Hankamer
Colquitt	Hardin
Cooper	Harris of Archer
Cowley	Harris of Dallas
Craddock	Hartzog
Crossley	Head
Daniel	Herzik
Davis	Hill
Dickison	Hodges
Dunagan	Hofheinz
Dunlap of Hays	Holland
Dunlap of Kleberg	Howard

Huddleston
Hunt
Hyder
Jackson
James
Jefferson
Jones of Falls
Jones of Wise
Knetsch
Latham
Leath
Mauritz
McCalla
McConnell
McFarland
McKee
Moffett
Moore
Morse
Newton
Nicholson
Olsen
Palmer
Patterson
Payne
Petsch
Pope

Quinn
Reader
Reed of Dallas
Roach of Angelina
Roach of Hunt
Roane
Roark
Roberts
Rogers
Russell
Rutta
Settle
Shofner
Smith
Spears
Stanfield
Stovall
Tarwater
Tennyson
Thornton
Tillery
Waggoner
Walker
Wood of Montague
Young
Youngblood

Nays—33

Aikin	Jones of Atascosa
Alexander	Jones of Runnels
Beck	Jones of Shelby
Bradbury	Lanning
Broyles	Lindsey
Butler of Brazos	Lotief
Cagle	Lucas
Calvert	Luker
Colson	McKinney
Davisson	Morris
of Eastland	Morrison
Farmer	Reed of Bowie
Fisher	Steward
Fitzwater	Venable
Gibson	Wells
Hoskins	Westfall
Hunter	Wood of Harrison

Absent

Celaya	Leonard
Davison of Fisher	Padgett
Greathouse	Riddle
King	Scarborough
Lange	Stinson
Lemens	

Absent—Excused

Canon	Worley
Keefe	

Mr. Morse offered the following amendment to the resolution:

Amend House Joint Resolution No. 1 by adding at the end of Section 1, Subdivision (b), the following:

"The Legislature may provide for a State-owned dispensary system for

the manufacture and sale of said liquors."

MORSE,
ROGERS.

Mr. Fox offered the following substitute for the amendment by Mr. Morse:

Substitute for Morse amendment to House Joint Resolution No. 1 by adding after the word "Texas" in Subsection (a) of Section 1, the following: "which shall include the right upon the part of the State to establish a State-owned monopoly system and prohibit the sale of intoxicating liquor for private profit."

FOX,
ALSUP.

Question—Shall the substitute amendment by Mr. Fox be adopted?

EXTENDING CONGRATULATIONS TO HON. CLYDE BRADFORD AND WIFE

Mr. Caldwell offered the following resolution:

Whereas, The blessings of the Almighty have been bestowed upon our fellow member, Clyde Bradford, and his charming wife, by the arrival, on March 6, of a lovely daughter, Barbara Rahe Bradford; and

Whereas, We desire to felicitate our colleague and his wife upon this blessed event which will bring them such joy and happiness throughout the years to come; now, therefore, be it

Resolved by the House of Representatives of the Forty-fourth Legislature, That the Hon. and Mrs. Clyde Bradford be extended the most heartfelt congratulations of this body and that a copy of this resolution, together with a floral offering, be sent at once to Mrs. Bradford as a token of our gladness and joy at the happiness which has come to them.

Signed—Caldwell, Venable, Good, Hankamer; Stevenson, Speaker; Adamson, Adkins, Aikin, Alexander, Alsup, Ash, Atchison, Beck, Bergman, Bourne, Bradbury, Broyles, Burton, Butler of Brazos, Butler of Karnes, Cagle, Calvert, Canon, Celaya, Clayton, Collins, Colquitt, Colson, Cooper, Cowley, Craddock, Crossley, Daniel, Davis, Davison of Fisher, Davison of Eastland, Dickison, Dunagan, Dunlap of Hays, Dunlap of Kleberg, Duvall, Dwyer, England,

Fain, Farmer, Fisher, Fitzwater, Ford, Fox, Frazer, Fuchs, Gibson, Glass, Graves, Gray, Greathouse, Hardin, Harris of Archer, Harris of Dallas, Hartzog, Head, Herzik, Hill, Hodges, Hofheinz, Holland, Hoskins, Howard, Huddleston, Hunt, Hunter, Hyder, Jackson, James, Jefferson, Jones of Atascosa, Jones of Falls, Jones of Runnels, Jones of Shelby, Jones of Wise, Keefe, King, Knetsch, Lange, Lanning, Latham, Leath, Lemens, Leonard, Lindsey, Lotief, Lucas, Luker, Mauritz, McCalla, McConnell, McFarland, McKee, McKinney, Moffett, Moore, Morris, Morrison, Morse, Newton, Nicholson, Olsen, Padgett, Palmer, Patterson, Payne, Petsch, Pope, Quinn, Reader, Reed of Bowie, Reed of Dallas, Riddle, Roach of Angelina, Roach of Hunt, Roane, Roark, Roberts, Rogers, Russell, Rutta, Scarborough, Settle, Shofner, Smith, Spears, Stanfield, Steward, Stinson, Stovall, Tarwater, Tennyson, Thornton, Tillery, Waggoner, Walker, Wells, Westfall, Wood of Harrison, Wood of Montague, Worley, Young, Youngblood.

The resolution was read second time.

On motion of Mr. Fain the names of all the members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

RECESS

Mr. Reader moved that the House adjourn until 10 o'clock a. m., tomorrow.

Mr. Wells moved that the House recess to 2 o'clock p. m., today.

Mr. Broyles moved that the House recess to 10 o'clock a. m., tomorrow.

Question first recurring on the motion by Mr. Reader, that the House adjourn until 10 o'clock a. m., tomorrow, it was lost.

Mr. Quinn moved that the House adjourn until 9 o'clock a. m., tomorrow.

The motion of Mr. Quinn was lost.

Mr. Hofheinz moved that the House adjourn until 9:55 o'clock a. m., tomorrow.

The motion of Mr. Hofheinz was lost.

Question next recurring on the motion by Mr. Wells, that the House recess to 2 o'clock p. m., today, it was lost.

Question recurring on the motion of Mr. Broyles, it prevailed, and the House, accordingly, at 12:15 p. m., took recess to 10 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills, as follows:

Criminal Jurisprudence: House Bills Nos. 297 and 729.

Education: House Bill No. 574.

Game and Fisheries: House Bills Nos. 60 and 221.

Judiciary: House Bills Nos. 238, 239, 240, 241, 242, 243, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 642, 643, 644, 717, 726, and 738.

Municipal and Private Corporations: House Bills Nos. 203, 340, 428, and 566.

School Districts: House Bill No. 722.

The following committees have filed adverse reports on bills, as follows:

Judiciary: House Bills Nos. 693 and 718.

Municipal and Private Corporations: House Bill No. 111.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,
Austin, Texas, March 5, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 474, A bill to be entitled "An Act relating to mining claims and rights, amending Article 5395 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, relating to the time of payment of rentals on mining claims awarded under Article 5397 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, and providing royalties to be paid the State from minerals produced upon such claims; and amending Article 5397 of Chapter 5, of Title 86, of the Revised Civil Statutes of Texas, 1925, providing for forfeiture of rights of location or owner of mining claims by the Land Commissioner upon default of pay-

ment of any sum due within thirty (30) days after sum is due, or for making false reports or failing or refusing access to records, or knowingly failing or refusing to give correct information, or to furnish Land Office correct reports, etc., and declaring an emergency,"

Has carefully compared same, and finds it correctly engrossed.

HODGES, Chairman.

Committee Room,
Austin, Texas, March 5, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. J. R. No. 5, Proposing an amendment to Section 1a of Article VIII of the Constitution of the State of Texas exempting three thousand dollars (\$3,000) of the assessed taxable value of all residence homesteads, as now defined by law, from all State, county, city, town, district and other political subdivision purposes, etc.,

Has carefully compared same, and finds it correctly engrossed.

HODGES, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Committee Room,
Austin, Texas, March 6, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 49, Suspending Joint Rule 23, and postponing further consideration of all Senate bills until final disposition of House Bills Nos. 635 and 637 by the House,

Has carefully compared same, and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,
Austin, Texas, March 7, 1935.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 37, Relative to disbursement of monies obtained from Racing Fund,

Has carefully compared same, and finds it correctly enrolled.

ATCHISON, Chairman.